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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/972,264

10/09/2001

Robert Marc Zeidman

3915

32605

7590

11/28/2006

MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
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SAN JOSE, CA 95110

EXAMINER

HAQ, NAEEM U

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/972,264	Applicant(s) ZEIDMAN, ROBERT MARC	
	Examiner Naeem Haq	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Appeal Brief

In view of the Appeal Brief filed on August 29, 2006, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.


To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Jeff Smith, SPE
(Art Unit 3625)



JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al. (US 6,415,270 B1) ("Rackson") in view of Ramakrishnan et al. "Database Management Systems" ("Ramakrishnan").

Referring to claim 1: Rackson teaches an apparatus for allowing a seller of items to gather data from e-commerce websites, comprising:

- a website server computer (Figure 2, "30") connected to the Internet (Figure 2, "16"), including a database (Figure 3, "32"; Figure 10, "32") for storing data about previous sales (Figure 10, "56"; col. 10, lines 57-60) of said items on one or more of the e-commerce websites (Figure 2, "12" and "14"; col. 9, lines 7-49);
- data gathering software that visits the e-commerce websites to compile said data about said previous sales (col. 25, lines 5-8; col. 23, lines 18-29); and
- application software for allowing a user to request from the database said data about said previous sales (col. 25, lines 8-28).

Rackson does not disclose database management software for maintaining said database. However, Ramakrishnan discloses the advantages of using database management software for managing data in a database (pages 3, 4, 8, and 9).

Therefore it would have been obvious to one of ordinary skill in the art, at the time the

Art Unit: 3625

invention was made, to incorporate database management software into the invention of Rackson. One of ordinary skill in the art would have been motivated to do so in order to obtain the benefits described by Ramakrishnan such as data independence, data integrity and security, and crash recovery.

Referring to claim 4: The cited prior art teaches or suggests all the limitations of claim 1 as noted above. Furthermore, Rackson teaches network connection software to enable the application software to communicate over the Internet with a seller at a remote computer (Figure 2, "10", "16", and "30"; col. 8, line 64 – col. 9, line 6; col. 23, lines 6-17).

Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al. (US 6,415,270 B1) ("Rackson") in view of Ramakrishnan et al. "Database Management Systems" ("Ramakrishnan") and further in view of Bailey et al. (US 6,785,671 B1) ("Bailey").

Referring to claim 2: The cited prior art teaches or suggests all the limitations of claim 1 as noted above. The cited prior art does not teach that the agent software, at regular intervals, searches the e-commerce websites to obtain the data about previous sales. However, Bailey teaches a system for locating web-based product offerings that uses a web crawler (i.e. agent software) to search and obtain data about products at regular intervals (col. 5, lines 46-48; col. 14, lines 21-26). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Bailey into the cited prior art. One of ordinary skill in the art

would have been motivated to do so in order to keep the database current and up to date.

Referring to claim 5: The cited prior art teaches or suggests all the limitations of claim 2 as noted above. Furthermore, Rackson teaches network connection software to enable the agent software to communicate over the Internet with an e-commerce website (Figure 2, "10", "16", and "30"; col. 8, line 64 – col. 9, line 6; col. 23, lines 6-17).

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al. (US 6,415,270 B1) ("Rackson") in view of Ramakrishnan et al. "Database Management Systems" ("Ramakrishnan") and further in view of Searcher et al. "Intelligent agents: A primer" ("Searcher").

Referring to claim 3: The cited prior art teaches or renders obvious all of the limitations of claim 1 as noted above. The cited prior art does not teach that the software agent, at times determined by the seller, searches the e-commerce websites to obtain data about previous sales. However, Searcher discloses intelligent agents (i.e. agent software) for searching various websites to obtain data for commercial transactions (page 15, lines 19-22) based on user-specified (page 5, lines 23-27). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Searcher into the invention of the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to keep the database current and up to date.

Referring to claim 6: The cited prior art teaches or suggests all the limitations of claim 3 as noted above. Furthermore, Rackson teaches network connection software to

Art Unit: 3625

enable the agent software to communicate over the Internet with an e-commerce website (Figure 2, "10", "16", and "30"; col. 8, line 64 – col. 9, line 6; col. 23, lines 6-17).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (571)-272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571)-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Naeem Haq, Primary Examiner
Art Unit 3625

November 25, 2006